1. S.B.Civil First Appeal No.403/2004
Chairman and M.D., JVVNL and another vs. Ramkala.

2. S.B.Civil Misc. Cross Objection No.18/2005
Ramkala vs. Chairman and M.D., JVVNL and another.

Date : 26.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. P Solanki for Mr. V Bishnoi, for the appellants.
Mr. MP Pareek, for the respondent/cross objector.

- - - - -

Heard learned counsel for the parties.

Learned counsel for the plaintiff/respondent submits that though the court below has decree the suit of the plaintiff/respondent filed under the provisions of Fatal Accident Claims Act, 1855 (for short 'the Act of 1855') but in view of the objection raised by the appellants about jurisdiction of the Court under the Act of 1855, the respondent/plaintiff may be permitted to withdraw the suit so that he may file the proper suit in the civil court.

In view of the above request of plaintiff/respondent, the plaintiff/respondent is permitted to withdraw the suit for filing the proper suit in the civil court in accordance with law. In case, the plaintiff/respondent submits the suit in civil court within a period of one month from today

with an application under Section 14 of the Limitation Act, the civil court may consider the application for condonation of delay under Section 14 of the Limitation Act sympathetically.

Since the suit has been withdrawn by the plaintiff/ respondent and the permission has been granted by this Court, therefore, the plaintiff's suit is dismissed as withdrawn with liberty to file proper suit in civil court.

Accordingly, this appeal is hereby dismissed as having become infructuous.

Since the respondent has withdrawn the suit itself, therefore, the cross objections preferred by the respondent/plaintiff for enhancement of compensation does not survive and hence, the cross objections are also dismissed.

(PRAKASH TATIA), J.

S.Phophaliya